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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
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10 DIJON BERNARD,

11 Plaintiff,

12 v.

13 SMART TRANSPORTATION
14 DIVISION, et al. ,

15 Defendants.
16

Case No. 2:23-cv-10235-SB (DTB)

**ORDER ACCEPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE**

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18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint, all the
19 records and files herein, and the Report and Recommendation (Report) of the
20 United States Magistrate Judge. Plaintiff's Objections and Defendant's Response
21 to Objections to the Report have been filed herein.

22 Plaintiff's objections do not address the central finding in the Report that he
23 failed to file his lawsuit within 90 days of receiving the EEOC right to sue letter.
24 Instead, Plaintiff briefly argues the merits of his case and conclusorily states that
25 he "should have the right to seek damages under this cause of action." Because
26 Plaintiff fails to address the fact that his Title VII claim is time barred, his
27 objection is overruled and his request for dismissal without prejudice is denied.
28 Plaintiff's other objections are not directed to the Report. In one, he provides his

1 reasoning for filing in state court, which was not at issue in the Report or motion to
2 dismiss. In the other, he asks the Court to explain what the Report's reference to a
3 "non-title VII claim . . . pertains to." The Report's reference to non-Title VII
4 claims refers to his claims under the Rehabilitation Act, California Fair
5 Employment and Housing Act, and 42 U.S.C. § 1981, which the Report
6 recommends dismissing without prejudice.

7 Having made a *de novo* determination of those portions of the Report and
8 Recommendation to which objections have been made, the Court concurs with and
9 accepts the findings, conclusions and recommendations of the Magistrate Judge.

10 IT THEREFORE IS ORDERED that Defendant's Motion is granted in part
11 and denied in part as follows: Plaintiff's Title VII claims are dismissed with
12 prejudice and without leave to amend; Plaintiff's remaining claims are dismissed
13 without prejudice and with leave to amend. Plaintiff is ORDERED, if he still
14 desires to pursue his non-Title VII claims, to file a First Amended Complaint
15 *within 30 days* of the date of this Order Accepting Findings, Conclusions and
16 Recommendations of United States Magistrate Judge.

17 If Plaintiff chooses to file a First Amended Complaint, it should bear the
18 case number assigned in this case; be labeled "First Amended Complaint"; and be
19 complete in and of itself without reference to any other pleading, attachment, or
20 document.

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22 Dated: May 15, 2024



23 STANLEY BLUMENFELD, JR.
24 United States District Judge
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